IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

Crl.MC.No. 2550 of 2007()

ST.3133/2005 of Judicial Magistrate of the First Class-II, PARAPPANANGADI

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PETITIONER: ACCUSED

MOHAMMED KUTTY, S/O. ABOOBACKER,
AYYANKANDATHIL HOUSE,
RAYIRIMANGALAM AMSOM DESOM,
TANUR, TIRUR TALUK.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS: STATE AND COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. C.P. MOHAMMED FAIZAL, RAYIRIMANGALAM AMSOM DESOM, TANUR, TIRUR TALUK, REPRESENTED BY POWER OF ATTORNEY HOLDER MOHAMMED ISMAIL, RAYIRIMANGALAM AMSOM DESOM, TANUR,TIRUR TALUK.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No. 2550 of 2007

Dated this the 9th day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance was taken as early as in 2005. Consequent to non appearance of the petitioner, a warrant of arrest has been issued by the learned Magistrate against the petitioner. The petitioner finds such warrant of arrest chasing him now.

2. According to the petitioner, he is absolutely innocent. There was no contumacious act on his part as he had appeared through counsel and applied for exemption from personal appearance. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But the petitioner apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-